

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants, Lonnie Johnson and Trucking by Faith, Inc., improperly pled as Trucking by Faith, LLC (hereinafter jointly “Removing Defendants”); by and through their attorneys, Cipriani & Werner, P.C., submit this Notice of Removal from the Superior Court of New Jersey, Law Division, Union County, to the United States District Court for the District of New Jersey. In support of this Notice, Removing Defendants state as follows:

Nature of Action

1. This matter arises from a motor vehicle accident that took place at the intersection of Route 1 northbound and South Park Avenue. See Plaintiff's Complaint, First Count, ¶ 16, attached hereto as **Exhibit A**.

2. Plaintiff, Bela Lowy, alleges that as a result of the accident he "was caused to sustain severe, painful, and permanent injuries to his body...was compelled and shall in the future be compelled to expend large sums of money for medical care and attention, as well as endure great physical and emotional pain and suffering...employment and his earnings power has been materially adversely affected..." See **Exhibit A**, First Count, ¶ 21.

3. Upon information and belief, Plaintiff sustained a closed head injury, a fractured clavicle, and other injuries as a result of the accident.

4. Upon information and belief, Plaintiff underwent surgery on June 30, 2021 to repair the fractured clavicle.

5. No Answer has been filed in this matter as of the date of this Removal Petition. Pursuant to 28 U.S.C. § 1446(a) copies of the pleadings served upon Removing Defendants consist only of the Complaint, which is attached hereto as **Exhibit A**.

6. Plaintiff attempted to effect service on Moving Defendants. Said service was improper pursuant to N.J.S.A. 39:7-2(b). Removing Defendants moved to quash the service and require proper service compliant with N.J.S.A. 39:7-2. See Motion to Quash, attached hereto as **Exhibit B**.

7. In response to Removing Defendants' Motion to Quash, Plaintiff withdrew the Complaint and filed a new Complaint on November 1, 2021 to serve it in compliance with the applicable statute. See **Exhibit A**.

8. As of the day of this filing, no proof of service by the Division of Motor Vehicles has been filed as to Removing Defendants.

Timeliness of Removal

9. As set forth above, no proof of service as to Removing Defendants has been filed by the Division of Motor Vehicles, or provided by Plaintiff.

10. Pursuant to 28 U.S.C. § 1446(b), Removing Defendants have thirty (30) days from the date of service on the last defendant to file a petition for removal.

11. Thus, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

Amount in Controversy

12. Plaintiff, Bela Lowy, alleges that as a result of the accident he “was caused to sustain severe, painful, and permanent injuries to his body...was compelled and shall in the future be compelled to expend large sums of money for medical care and attention, as well as endure great physical and emotional pain and suffering...employment and his earnings power has been materially adversely affected...” See **Exhibit A**, First Count, ¶ 21.

13. Plaintiff’s injuries, upon information and belief, include a closed head injury and bone fracture.

14. Plaintiff’s treatment, upon information and belief, includes surgical treatment.

15. Based upon the foregoing, and upon the information and belief that Plaintiff continues to receive treatment and will be seeking remuneration for medical expenses and lost wages, as well as monetary relief for his pain and suffering, the amount in controversy exceeds the sum or value of \$75,000, and this Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332.

Diversity of Citizenship

16. Plaintiff's Complaint alleges that at all times relevant to this litigation, he has been a resident of Richmond County, Staten Island, New York. See **Exhibit A**, ¶1.

17. Plaintiff's Complaint alleges that at all times relevant to this litigation Plaintiff has resided, domiciled, and made his fixed and permanent home, and place of habitation, at 715 Harris Avenue, Staten Island, New York 10314. See **Exhibit A**, ¶1.

18. Thus, upon information and belief, including information provided by Plaintiff in his Complaint, Plaintiff is a citizen of the State of New York. See **Exhibit A**.

19. Defendant, Lonnie Johnson, is a citizen of the State of Florida. At all times relevant to this litigation he has resided, domiciled, and made his fixed and permanent home, and place of habitation, at 2219 Bridier Street, Jacksonville, Florida 32206.

20. Defendant, Trucking by Faith, Inc., is a foreign corporation incorporated under the laws of, and maintaining its principal place of business in, the State of Florida.

21. No defendant in this litigation shares citizenship with Plaintiff. Thus, diversity of citizenship is satisfied.

Plea for Removal

22. Insofar as the amount in controversy is alleged to exceed \$75,000 and full diversity exists, removal to this Court is proper pursuant to 28 U.S.C. § 1332(a) and 28 U.S.C. § 1441(a). Written notice of this removal petition is being made simultaneously to all parties and to the Clerk of the New Jersey Superior Court, Union County, that this Notice of Removal is being filed with this Court.

WHEREFORE, Defendants, Lonnie Johnson and Trucking by Faith, Inc. hereby file this Notice of Removal requesting that the entire state court action bearing Docket No. UNN-L-3754-21, now pending in the New Jersey Superior Court, Law Division, Union County, be removed to this Court for all further proceedings.

Respectfully submitted,

CIPRIANI & WERNER, P.C.

February 16, 2022

By: /s/ Grant C. Wright
GRANT C. WRIGHT, ESQUIRE

